

ORIGINAL  
NEW APPLICATION



0000193337

BEFORE THE ARIZONA CORPORATION COMMISSION

2018 NOV -2 P 3:04

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

TOM FORESE - Chairman  
BOB BURNS  
ANDY TOBIN  
BOYD DUNN  
JUSTIN OLSON

NOV 2 2018

DOCKETED BY

In the matter of:

DOCKET NO. S-21059A-18-0345

JG ENTERPRISE, LLC, an Arizona limited liability company,

**TEMPORARY ORDER TO CEASE AND DESIST AND NOTICE OF OPPORTUNITY FOR HEARING**

FOX FIRST SERVICES, LLC, a Nevada limited liability company,

JENNIFER JEAN GUTSCHKE and JOHN DOE GUTSCHKE, wife and husband,

CARLTON LAMONT FOX and JANE DOE FOX, husband and wife,

Respondents.

**NOTICE: THIS ORDER IS EFFECTIVE IMMEDIATELY**

**EACH RESPONDENT HAS 20 DAYS TO REQUEST A HEARING**

**EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER**

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that respondents JG Enterprise, LLC, Fox First Services, LLC, Jennifer Jean Gutschke, and Carlton Lamont Fox, are engaging in or are about to engage in acts and practices that constitute violations of A.R.S. § 44-1801, *et seq.*, the Arizona Securities Act ("Securities Act"), and that the public welfare requires immediate action.

The Division also alleges that Jennifer Jean Gutschke directly or indirectly controlled JG Enterprise, LLC, and Carlton Lamont Fox directly or indirectly controlled Fox First Services, LLC, within the meaning of A.R.S. § 44-1999(B), so that they are jointly and severally liable under A.R.S. § 44-1999(B) to the same extent as JG Enterprise, LLC, and Fox First Services, LLC, for their respective violations of the antifraud provisions of the Securities Act.

**I.**

**JURISDICTION**

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

**II.**

**RESPONDENTS**

2. JG Enterprise, LLC, Fox First Services, LLC, Jennifer Jean Gutschke, and Carlton Lamont Fox, may be referred to collectively as "Respondents".

3. JG Enterprise, LLC ("JG") is a limited liability company that was organized under the laws of the state of Arizona in March of 2012. JG has not been registered by the Commission as a securities salesman or dealer, and offers or sells securities that have not been registered pursuant to the Securities Act.

4. Jennifer Jean Gutschke ("Gutschke") is the statutory agent and manager of JG and resides in the state of Arizona. Gutschke is not registered with the Commission as a securities salesman or dealer.

5. John Doe Gutschke ("Respondent Gutschke Spouse") has been at all relevant times the spouse of Respondent Gutschke.

6. Fox First Services, LLC ("Fox First") was formed in Nevada as a limited liability company, but its current status is "dissolved". Fox First is currently operating a business from the state of Arizona. Fox First has a bank account in Arizona.

7. Fox First has not applied to the Commission to do business as a foreign business entity in Arizona and therefore is not authorized to do any business in Arizona. Fox First has not been registered by the Commission as a securities salesman or dealer, and none of the Fox First' securities have been registered by the Commission.

8. Carlton Lamont Fox ("Fox") is the managing member of Fox First and resides in the state of Arizona.

9. Jane Doe Fox ("Respondent Fox Spouse") has been at all relevant times the spouse of Respondent Fox.

10. Respondent Spouses are joined in this action under A.R.S. § 44-2031(C) solely for purposes of determining the liability of the marital communities.

### III.

## SUMMARY

11. Respondents participated in or induced the unlawful sale of securities totaling over \$460,000 to at least thirty-two (32) investors from at least fourteen (14) different states.

12. Since September of 2017, through (at least) March of 2018, at least seventeen (17) of the investors were initially contacted by individuals who offered and sold investment opportunities, and claimed to be affiliated with or worked for First Merchant Network (“First Merchant”), a Nevada based entity, Vanguard Merchants<sup>1</sup>, JG and/or Fox First. Investors were also contacted by individuals claiming to work for and/or were affiliated with the following companies: Vanguard Merchant Services, Vanguard, First Data, First Data Solutions, First Data Financial, and Discover Bank. The individuals who initially contacted the investors are hereby collectively referred to as “Telemarketers”.

13. Telemarketers made the following statements to investors: (1) the money invested would go towards the purchase of leads for prospective businesses ("Leads List") that were interested in or needed card reader terminals; (2) some of the investors were told that the money invested would go directly towards the purchase of card reader terminals, which then would be sold to interested businesses; (3) the investors would receive a fixed amount per terminal installation; (4) the investors would receive a percentage of all processing fees for all transactions conducted at each installed terminal; (5) and the investors would receive an additional percentage of all cash advances distributed at the terminal (collectively the "Investment").

<sup>1</sup> Address given to investors is 400 S. 4<sup>th</sup> St., Las Vegas, Nevada 89101. Some investors were told that the company's name was "Vanguard Merchant Services". Vanguard Merchant Services was formed in Nevada, but current status is "Permanently Revoked".

14. Each investor was assigned a campaign manager who would contact them periodically and update them about their Investment ("Campaign Manager").

15. After the initial Investment, at least through July of 2018, some of the investors were contacted by the Campaign Manager, who told the investors their Investment account had increased and that in order to withdraw the funds, the investors must pay a processing or legal fee.

16. Investors are still being contacted by Campaign Managers, continuing to the present, about changes to their Investment accounts.

17. Telemarketers and Campaign Managers used names of companies that were well-known or recognizable so that investors would think that they were investing with reputable companies, when in fact they were not. The Telemarketers likely and wrongfully appropriated the names of well-known or recognizable companies to assist in their scheme.

18. At least some of the Telemarketers and Campaign Managers were located in Arizona at the time of the unlawful offers and sales of securities.

19. In all of these instances, once the investors invested with the above companies, the money was wired to bank accounts owned by either JG or Fox First ("Bank Accounts").

20. Fox and Gutschke withdrew investor's monies from the Bank Accounts in cash, and then JG and Fox First paid Telemarketers and/or Campaign Managers with cashier's checks.

21. Investor money was not used to purchase card reader terminals.

22. Investor money was not used to purchase Leads List of businesses that were interested in purchasing card reader terminals.

#### IV.

## FACTS

### A. The Investment

23. Between December of 2017 to March of 2018, the known investors initially invested over \$450,120. Out of that amount, about \$226,050 was wired into JG's bank account, and \$224,070 went into Fox First's bank account.

1           24.     After the initial Investment, investors were told that their Investments had increased  
2 and in order to withdraw the money from their accounts, they must pay certain fees. Of those fees,  
3 at least \$15,000 went into JG's bank account.

4           25.     Telemarketers and certain Campaign Managers were agents and/or affiliates of Fox  
5 First and JG, or otherwise induced the sale of the Investment on behalf of these companies.

6           26.     JG and Fox First paid Telemarketers and/or Campaign Managers through cashier  
7 checks, and the checks were withdrawn or cashed by the Telemarketers in Arizona.

8           27.     JG and Fox First used some of the same Telemarketers and/or Campaign Managers.

9           28.     Telemarketers found some of the investors when the investors either searched the  
10 internet for "work-from-home" opportunities or filled out an interest card. But most of the investors  
11 were contacted through cold-calls.

12          29.     At least eleven (11) of the investors were induced to invest through cold-calls by  
13 individuals who represented that they worked or were affiliated with either First Merchant, Vanguard  
14 Merchants, JG or Fox First.

15          30.     At least three (3) of the investors were contacted by individuals who represented that  
16 they worked for First Merchant after the investors searched for "work-from-home" opportunities  
17 online.

18          31.     At least a couple of the investors saw pop-up advertisements on the internet for First  
19 Merchant while they searched for "work-from-home" or investment opportunities, and filled out an  
20 interest card or emailed the company. Shortly after, the investors received a telephone call from  
21 Telemarketers who offered and sold them the Investment.

22          32.     After explaining to the investors the Investment, the Telemarketers promised a return  
23 of their initial Investment within ninety (90) or one hundred eighty (180) days, along with a monthly  
24 percentage generated from the usage of the card reader terminals. Further, the Telemarketers  
25 promised investors that they would receive a fixed amount per terminal installed at a business, a  
26

1 percentage of all processing fees for all transactions conducted on each terminal, and an additional  
2 percentage of all the cash advances.

3 33. During the telephone call, Telemarketers represented to the investors different returns  
4 on their Investment based on what it took to convince them to invest.

5 a) For example, one investor was contacted by a representative who claimed to work for  
6 First Merchant, and that representative promised him that he would receive about \$1,000 per month  
7 in income, and between one to five percent (1-5%) for each transaction completed in the card reader  
8 terminals. As a result, the investor invested \$10,000 and wired the money to Fox First.

9 b) Another investor was promised by a representative claiming to work for Discover  
10 Bank that she would receive about \$1,000 to \$2,000 per month in income, after she received back  
11 her initial Investment in three months. The investor wired her Investment money to JG.

12 c) Almost all of the investors were promised one to five percent (1-5%) for every  
13 transaction conducted on the card reader terminals, and two to five percent (2-5%) on the cash  
14 advances.

15 d) Each investor was assigned a Campaign Manager.

16 e) Almost all the investors were promised that they would receive their initial Investment  
17 back within ninety (90) to hundred eighty (180) days.

18 34. Some of the investors received a "Letter of Intent" from either Vanguard Merchants  
19 or First Merchant briefly outlining their Investment and confirming what they were promised during  
20 the aggressive and invasive telephonic sales call.

21 35. While the Letter of Intent refers to the investors as "Referral Agents", the investors  
22 were specifically told that no work was required from them beyond their initial Investment. Even the  
23 investors who searched for or expressed to the Telemarketers that they were interested in "work-  
24 from-home" opportunities, were told that the Investment did not require for them to do any work. In  
25 fact, "work-from-home" was discouraged. One investor who received a Leads List, after repeatedly  
26 requesting to be provided with one, was told by the Campaign Manager not to contact any of the



1 businesses on the Leads List "because it would screw up their efforts" in finalizing the contracts with  
2 the businesses. None of the investors received any training to be a referral agent. Most of the investors  
3 were not provided a Leads List, and none of the investors were told to contact any businesses on the  
4 Leads List.

5 36. The investors received the Letter of Intent either before or on the day of their  
6 investment.

7 37. The Letters of Intent had many similar promises, with every known investor being  
8 promised that they would receive the following:

- 9 a) \$500 per terminal installation;
- 10 b) "2% Cash Advances (Range \$50,000 - \$1,500,000)";
- 11 c) "1% of Total Monthly Processing Fee per Business Entity";
- 12 d) Full return of their initial Investment within ninety (90) days or one hundred eighty  
13 (180) days; and
- 14 e) Periodic appointments with a Campaign Manager.

15 38. However, the Letters of Intent also contained a few different promises. For example,  
16 some of the letters stated that the investors could expect the following:

17 a) Monthly residuals between \$249 through \$5,625,000 by First Merchant. The  
18 estimated monthly residual differed between investors, however, the difference did not correlate to  
19 their Investment amount.

20 b) Guaranteed at least fifteen percent (15%) of the leads would materialize into card  
21 readers and generate income for the investor.

22 c) If they did not receive a full return of their initial Investment amount within ninety  
23 (90) days, then First Merchant would refund their initial Investment amount; or

24 d) If they did not receive a full return of their initial investment amount within ninety  
25 (90) days or one hundred eighty (180) days, then First Merchant or Vanguard Merchants would  
26 purchase new leads/new campaign on their behalf to guarantee return on their investment; or

1 e) If they did not receive a full return of their initial Investment amount within ninety  
2 (90) days, then First Merchant would purchase new leads/new campaign on their behalf to guarantee  
3 up to the amount of the original investment; or

4 f) If they did not receive their initial Investment back within ninety (90) days, then they  
5 would be reimbursed up to \$100,000.

6 39. In all instances, none of the investors received their Investment back, and none of the  
7 investors received a return on their Investment within ninety (90) or one hundred eighty (180) days  
8 that they were promised.

9 40. Further, the investors were not reimbursed, and/or new leads were not purchased on  
10 their behalf.

11 41. Only two of the investors received money from Respondents. One investor received  
12 a cashier's check, dated July 24, 2018, for \$500. The other investor received a cashier's check, dated  
13 August 20, 2018, for the same amount. Both cashier's checks were issued by Fox First.

14 42. Both of the investors received the cashier's checks well after the promised ninety (90)  
15 days' time period. Additionally, the checks were mailed without an explanation and without a return  
16 address.

17 a) One of the investors was told by a second Campaign Manager, who represented he  
18 worked for First Data Network, that his previous Campaign Manager was fired and also lied to him  
19 about the units sold to businesses. According to the second Campaign Manager, there were no  
20 contracts with any businesses. The investor did not know why he received the cashier's check.

21 b) The other investor received a telephone call by a new Campaign Manager who told  
22 him that "the company was in turmoil and the lawyers were fighting it out...there is a good chance  
23 that his whole investment would be lost".

24 43. In almost all instances, investors that were initially contacted by Telemarketers who  
25 claimed to be affiliated or worked for First Merchant, Vanguard Merchants, JG and/or Fox First,  
26 wired money to Bank Accounts to complete their Investment.



1           44.     Fox opened a bank account with Bank of America, located in Arizona, on December  
2 1, 2017, on behalf of Fox First. His job title was listed as a member of the LLC on the bank account  
3 records. Fox is the only authorized signatory on the account.

4           45.     Gutschke opened a bank account with Bank of America, located in Arizona, on  
5 December 11, 2017, on behalf of JG. Her job title was listed as a manager of the LLC on the bank  
6 account records. Gutschke is the only signatory on the account.

7           46.     Both Gutschke and Fox withdrew, in the form of cash, most of the investors' money  
8 that were deposited in the Bank Accounts, often on the same day of the deposit, or within a week  
9 thereafter. Gutschke and Fox only left a small amount of investor money at the end of each month in  
10 the Bank Accounts. Upon information and belief, it appears that no other source of income went into  
11 the Bank Accounts other than the money from the investors.

12           **B.     Targeted Investors**

13           47.     Respondents, through their agents and/or affiliates, appeared to target senior citizens  
14 and aggressively induced the investors to invest with First Merchant, Vanguard Merchants, Fox First  
15 or JG. Even when the investors stated that they did not have the money to invest, Telemarketers asked  
16 them if they had other resources available, such as gold coins, 401k or credit cards limits.

17           48.     In other instances, when the investors indicated that they could not afford the required  
18 Investment amount, the Telemarketers lowered the requirements to an amount that would entice an  
19 investment. Each investor was told a different required Investment amount by the Telemarketers.

20           49.     All of the known investors reported that they did not have investment experience  
21 and/or do not qualify as accredited investors.

22           50.     Prior to investing with Fox First and JG, the investors had no dealings with either  
23 company or any of the companies that contacted them regarding the Investment opportunities.

24           **C.     Requests for Additional Payments**

25           51.     After the initial Investment, at least seven (7) of the investors were contacted, either  
26 through text message, email or telephone, by the Campaign Manager who was an affiliate or agent

1 of either Fox First, JG, or First Merchant. The investors were told that their Investment account had  
2 increased, and that in order to withdraw the funds, the investors must pay a processing or legal fee.

3 52. For instance, on or about January of 2018, one of the investors received a telephone  
4 call from a Telemarketer, who told her that her account/investment had increased and in order for her  
5 to withdraw the money, she would need to pay a fee of \$20,000. The investor did not have money to  
6 pay the fee, and so the Campaign Manager lowered it to \$15,000. The investor paid the fee on January  
7 11, 2018. The money was wired to JG's bank account and then immediately withdrawn in cash by  
8 Gutschke. The investor did not receive any money from JG or any of its affiliates.

9 53. Investors were told different reasons as to why there were fees for withdrawing  
10 money, including legal fees, authorization fees, or fees required by "state's monetary and banking  
11 regulations" ("Fee(s)").

12 54. Some of the investors were threatened by their Campaign Managers that they would  
13 lose their entire Investment if they did not pay the Fees.

14 55. When in fact, the investor's Investment did not earn the represented amount, Leads  
15 List of interested businesses were not purchased on behalf of the investors, and card reader terminals  
16 were not installed at any interested businesses.

17 56. At least ten (10) of the businesses on the Leads List (provided to one of the investors)  
18 indicated that they had not been contacted by any of the Respondents and/or their affiliates. Out of  
19 these ten business, nearly all of them indicated that they do not even use credit card readers at their  
20 businesses. A representative from one business even stated that the manager listed on the Leads List  
21 had not been employed at that business since 2014.

22 57. None of the investors were provided with monthly statements or any documentation  
23 that showed that the investor's Investment earned the represented amount.

**D. Impact on the Investors**

58. Social Security is the main source of income for many of the investors. A lot of the investors could not afford to lose their Investment and/or the Fees, which they made clear to the Telemarketers and/or Campaign Managers.

59. One of the investors indicated that she lost everything and had to put her house up for sale.

60. Another investor is a disabled veteran and made it clear to the Telemarketer that he could not afford to lose the investment. He was assured by the Telemarketer that his investment would double. On that assurance, the investor wired the investment money to Fox First.

61. One investor indicated that she invested all of her savings, while two other investors indicated that they had to take out loans in order to make the initial Investment.

**E. Change of Company**

62. After some time had passed since the initial investment, some of the investors were contacted by new Campaign Managers who told them that First Merchant, Fox First, or Vanguard Merchants were either under new management, out of business, restructured, bankrupt, or that previous Campaign Manager was fired.

63. For example, one of the investors whose initial investment money went to Fox First, was contacted seven months after his initial investment by a new Campaign Manager who told him that Vanguard Merchants was under new management. Additionally, the new Campaign Manager told the investor that issues with the prior owners of Vanguard Merchants could result in the investor losing his Investment.

64. Another investor, whose initial investment money went to JG, was contacted 30 days after his initial investment and told that a new company was taking over his campaign because previous company went bankrupt. The Campaign Manager then proceeded to request that the investor pay the Fees in order to receive the accrued amount in his account. Despite the investor sending additional money, he did not receive any of the alleged accrued amount.

1           65.     At least one more investor, whose initial investment money went to JG, was contacted  
2 by a new Campaign Manager who told the investor that a new management had taken over his  
3 account because the prior company was not getting things done.

4           66.     At least a couple of the investors were told that a new company had taken over their  
5 investment and that they needed to pay the Fee in order to receive the accrued amount in their account.

6           **F.     Failure to Register and Fraud**

7           67.     The Investment has not been registered for sale as securities in Arizona or with the  
8 United States Securities and Exchange Commission.

9           68.     JG and Fox First are not registered to offer or sell securities in the state of Arizona.

10          69.     Respondents JG and Gutschke participated in or induced the sale of securities to  
11 investors, and directly or indirectly, engaged in a practice or course of business which operated as or  
12 would operate as a fraud or deceit, and failed to provide complete and accurate information regarding  
13 the proposed transaction(s), including the following misrepresentations and omissions of material  
14 fact:

15           a)     Some of the investors indicated to the Telemarketers that they could not afford to lose  
16 the Investment and/or that they did not have enough money to make the Investment. Respondents JG  
17 and Gutschke, through their agents and/or affiliates, misrepresented to those investors that they were  
18 guaranteed to recover the invested amount.

19           b)     Promised an investor that she would receive a full return of the amount invested in  
20 ninety (90) days from the initial Investment date, while failing to disclose that Respondents JG and  
21 Gutschke did not meet the promised deadline with previous investor.

22           c)     Promised investors that based on the leads purchased from their investment, the  
23 investors would receive a certain amount per card reader terminal installation, an estimated monthly  
24 payment based on a percentage of each cash advance completed at the card reader terminals, and a  
25 percentage of each total monthly processing fee per business entity, while failing to disclose to  
26 investors that Respondents JG and Gutschke had not paid previous investors any returns.

1 d) Promised investors that their investment would be used to purchase the Leads List or  
2 card reader terminals, and that the companies that the Telemarketers worked for and/or their affiliates  
3 would contact the businesses on the Leads List to attempt to sell and install the card reader terminals.  
4 However, Respondents JG and Gutschke, their affiliates and/or agents, did not use investors' money  
5 for said purpose.

6 e) Used deceitful methods to obtain Investment money from investors. Telemarketers,  
7 acting as agents and/or affiliates of Respondent JG, guaranteed to the investors that they would  
8 receive a full return of the amount invested in ninety (90) days, a certain amount per card reader  
9 terminal installation, an estimated monthly payment based on a percentage of each cash advance  
10 completed at the card reader terminals, and a percentage of each total monthly processing fee per  
11 business entity. Further, the Telemarketers guaranteed to some investors that at least a percentage of  
12 the businesses from the Leads List would purchase card reader terminals, which would then generate  
13 a guaranteed monthly payment for the investors. Telemarketers made these guarantees to the  
14 investors even though there was no legitimate business purpose associated with the Investment. The  
15 investors did not receive any of the guaranteed amount within the guaranteed time frame.

16 f) Used deceitful methods to obtain additional payments from investor. One of the  
17 investors was told that the invested money in her account had increased and in order to retrieve the  
18 accrued amount, she would need to pay legal fees. Despite the investor paying the "legal fees" by  
19 wiring the money to JG, she did not receive any of the promised amount.

20 g) Misrepresented to the investors that their Investment had increased and requested that  
21 the investors pay Fees in order to retrieve the accrued amount in their account, when in fact there was  
22 no legitimate business activity associated with their Investment. Further, Respondents JG and  
23 Gutschke, their agents and/or affiliates, did not provide to the investors any monthly statements or  
24 any documentation that showed that the investor's Investment earned the represented amount.

25 70. Respondents Fox First and Fox participated in or induced the sale of securities to  
26 investors, and directly or indirectly, engaged in a practice or course of business which operated as or

1 would operate as a fraud or deceit, and failed to provide complete and accurate information regarding  
2 the proposed transaction(s), including the following misrepresentations and omission of material fact:

3 a) Some of the investors indicated to the Telemarketers that they could not afford to lose  
4 the Investment and/or that they did not have enough money to make the Investment. Respondents  
5 Fox First and Fox, through their agents and/or affiliates, misrepresented to those investors that they  
6 were guaranteed to recover the invested amount.

7 b) Promised investors that based on the Leads List purchased from their Investment, the  
8 investors would receive a certain amount per card reader terminal installation, an estimated monthly  
9 payment based on a percentage of each cash advance completed the card reader terminals, and a  
10 percentage of each total monthly processing fee per business entity, while failing to disclose to investors  
11 that Respondents Fox First and Fox had not paid previous investors any returns.

12 c) Used deceitful methods to obtain Investment money from investors. Telemarketers,  
13 acting as agents and/or affiliates of Respondent Fox First, guaranteed to the investors that they would  
14 receive a full return of the amount invested in ninety (90) days or one hundred eighty days (180), a  
15 certain amount per card reader terminal installation, and a guaranteed monthly amount from  
16 businesses that would use the card reader terminals. Telemarketers made these guarantees to the  
17 investors even though there was no legitimate business purpose associated with the Investment. The  
18 investors did not receive any of the guaranteed amounts within the guaranteed time frame.

19 **IV.**

20 **VIOLATION OF A.R.S. § 44-1841**

21 **(Offer and Sale of Unregistered Securities)**

22 71. At least since December of 2017, through the present, Respondents have been offering  
23 or selling securities in the form of investment contracts, within or from Arizona.

24 72. The securities referred to above are not registered pursuant to Articles 6 or 7 of the  
25 Securities Act.

26 73. This conduct violates A.R.S. § 44-1841.



V.

**VIOLATION OF A.R.S. § 44-1842**

**(Transactions by Unregistered Dealers or Salesmen)**

74. Respondents are offering or selling securities within or from Arizona while not registered as dealers or salesmen pursuant to Article 9 of the Securities Act.

75. This conduct violates A.R.S. § 44-1842.

VI.

**VIOLATION OF A.R.S. § 44-1991**

**(Fraud in Connection with the Offer or Sale of Securities)**

76. In connection with the offer or sale of securities within or from Arizona, Respondents are, directly or indirectly: (i) employing a device, scheme, or artifice to defraud; (ii) making untrue statements of material fact or omitting to state material facts that are necessary in order to make the statements made not misleading in light of the circumstances under which they are made; or (iii) engaging in transactions, practices, or courses of business that operate or would operate as a fraud or deceit upon offerees and investors.

77. Respondents JG and Gutschke's conduct includes, but is not limited to, the following:

a) Misrepresenting to the investors that they were guaranteed to recover the invested amount.

b) Failing to disclose to the later investors that prior investors did not receive a full return of the amount invested within the promised ninety (90) days.

c) Failing to disclose to the later investors that prior investors did not receive the promised amount per card reader terminal, monthly payment based on a percentage of each cash advance completed at the card reader terminals, or a percentage of each total monthly processing fee per business entity.

d) Failing to disclose that the Investments would not be used to purchase Leads List of prospective businesses, or directly towards the purchase of card reader terminals.

1 e) Used deceitful methods to obtain Investment money from investors.

2 f) Used deceitful methods to obtain additional payments from investors.

3 g) Misrepresented to the investors that their Investment had increased in value and  
4 requested additional Fees, when in fact there was no legitimate business activity associated with the  
5 Investment.

6 78. Respondents Fox First and Fox's conduct includes, but is not limited to, the following:

7 a) Misrepresenting to the investors that they were guaranteed to recover the invested  
8 amount.

9 b) Failing to disclose to the later investors that prior investors did not receive the  
10 promised amount per card reader terminal installation, monthly payment based on a percentage of each  
11 cash advance completed at the card reader terminals or a percentage of each total monthly processing  
12 fee per business entity.

13 c) Used deceitful methods to obtain Investment money from investors.

14 79. This conduct violates A.R.S. § 44-1991.

15 **VII.**

16 **CONTROL PERSON LIABILITY PURSUANT TO A.R.S. § 44-1999**

17 80. Gutschke has been and/or held herself out as manager of JG.

18 81. Gutschke directly or indirectly controlled JG within the meaning of A.R.S. § 44-1999.  
19 Therefore, Gutschke is jointly and severally liable to the same extent as JG for its violations of A.R.S.  
20 § 44-1991 from at least December of 2017, through the present.

21 82. Fox has been and/or held himself out as managing member of Fox First.

22 83. Fox directly or indirectly controlled Fox First within the meaning of A.R.S. § 44-  
23 1999. Therefore, Fox is jointly and severally liable to the same extent as Fox First for its violations  
24 of A.R.S. § 44-1991 from at least December of 2017, through the present.

IX.

TEMPORARY ORDER

Cease and Desist from Violating the Securities Act

THEREFORE, based on the above allegations, and because the Commission has determined that the public welfare requires immediate action,

IT IS ORDERED, pursuant to A.R.S. § 44-1972(C) and A.A.C. R14-4-307, that Respondents, their agents, servants, employees, successors, assigns, and those persons in active concert or participation with Respondents CEASE AND DESIST from any violations of the Securities Act.

IT IS FURTHER ORDERED that this Temporary Order to Cease and Desist shall remain in effect for 180 days unless sooner vacated, modified, or made permanent by the Commission.

IT IS FURTHER ORDERED that if a request for hearing is made, this Temporary Order shall remain effective from the date a hearing is requested until a decision is entered unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED that this Order shall be effective immediately.

XIV.

REQUESTED RELIEF

The Division requests that the Commission grant the following relief:

1. Order Respondents to permanently cease and desist from violating the Securities Act, pursuant to A.R.S. § 44-2032;
2. Order Respondents to take affirmative action to correct the conditions resulting from Respondents' acts, practices, or transactions, including a requirement to make restitution pursuant to A.R.S. § 44-2032;
3. Order Respondents to pay the state of Arizona administrative penalties of up to five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;

4. Order that the marital communities of Respondents and Respondent Spouses are subject to any order of restitution, rescission, administrative penalties, or other appropriate affirmative action pursuant to A.R.S. § 25-215; and

5. Order any other relief that the Commission deems appropriate.

**XV.**

## HEARING OPPORTUNITY

Each respondent including Respondent Spouses may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. Rule 14-4-307. **If a Respondent or Respondent Spouse requests a hearing, the requesting respondent must also answer this Temporary Order and Notice.** A request for hearing must be in writing and received by the Commission within 20 days after service of this Temporary Order and Notice. The requesting respondent must deliver or mail the request for hearing to Docket Control, Arizona Corporation Commission, 1200 West Washington, Phoenix, Arizona 85007. Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at [www.azcc.gov/divisions/hearings/docket.asp](http://www.azcc.gov/divisions/hearings/docket.asp).

If a request for hearing is timely made, the Commission shall schedule a hearing to begin 10 to 30 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. **Unless otherwise ordered by the Commission, this Temporary Order shall remain effective from the date a hearing is requested until a decision is entered.** After a hearing, the Commission may vacate, modify, or make permanent this Temporary Order, with written findings of fact and conclusions of law. A permanent Order may include ordering restitution, assessing administrative penalties, or other action.

If a request for hearing is not timely made, the Division will request that the Commission make permanent this Temporary Order, with written findings of fact and conclusions of law, which may include ordering restitution, assessing administrative penalties, or other relief.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Kacie Cannon,

1 ADA Coordinator, voice phone number (602) 542-3931, e-mail [kcannon@azcc.gov](mailto:kcannon@azcc.gov). Requests  
2 should be made as early as possible to allow time to arrange the accommodation.

3 **XVI.**

4 **ANSWER REQUIREMENT**

5 Pursuant to A.A.C. R14-4-305, if a Respondent or Respondent Spouse requests a  
6 hearing, the requesting respondent must deliver or mail an Answer to this Temporary Order and  
7 Notice to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix,  
8 Arizona 85007, within 30 calendar days after the date of service of this Temporary Order and Notice.  
9 Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the  
10 Commission's Internet web site at [www.azcc.gov/divisions/hearings/docket.asp](http://www.azcc.gov/divisions/hearings/docket.asp).

11 Additionally, the answering respondent must serve the Answer upon the Division.  
12 Pursuant to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-  
13 delivering a copy of the Answer to the Division at 1300 West Washington, 3<sup>rd</sup> Floor, Phoenix,  
14 Arizona, 85007, addressed to Margaret Lindsey.

15 The Answer shall contain an admission or denial of each allegation in this Temporary  
16 Order and Notice and the original signature of the answering respondent or the respondent's attorney.  
17 A statement of a lack of sufficient knowledge or information shall be considered a denial of an  
18 allegation. An allegation not denied shall be considered admitted.

19 When the answering respondent intends in good faith to deny only a part or a  
20 qualification of an allegation, the respondent shall specify that part or qualification of the allegation  
21 and shall admit the remainder. Respondent waives any affirmative defense not raised in the Answer.

1           The officer presiding over the hearing may grant relief from the requirement to file an  
2 Answer for good cause shown.

3           BY ORDER OF THE ARIZONA CORPORATION COMMISSION, this 2<sup>nd</sup> day of November,  
4 2018.

A handwritten signature in black ink, appearing to read 'Mark Dinell', written over a horizontal line.

Mark Dinell  
Interim Director of Securities